



C.R.P.(MD) No.1359 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2023

CORAM:

THE HONOURABLE Mr.JUSTICE BATTU DEVANAND

C.R.P.(MD) No.1359 of 2019

A.Tennarasu

.. Petitioner/Petitioner/
Appellant

Vs.

1.A.Ravi

2.A.Balaguru

3.A.Illavarasan

4.J.Rajeshwari

5.R.Ramalakshmi

6.A.Pappa

.. Respondents/Respondents/
Defendants 1 and 3 to 6

Prayer: Petition filed under Section 115 of Civil Procedure Code to set aside the order dated 04.07.2019 in I.A.No.36 of 2018 in U/F.A.S.No.--- of 2018 on the file of the Principal District Court, Thanjavur.

For Petitioner : Ms.G.Porkodi
for Mr.G.Karnan

For R1 : Mr.D.Senthil



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For R2 : Mr.D.Vadivel
For RR3 to 5 : Mr.S.R.A.Ramachandran

ORDER

This Civil Revision Petition has been filed against the order dated 04.07.2019 in I.A.No.36 of 2018 in U/F.A.S.No.--- of 2018 on the file of the Principal District Court, Thanjavur.

2. Heard both sides and perused the record.

3. The petitioner is the 2nd defendant in the suit in O.S.No.401 of 2010 on the file of the Additional Subordinate Judge, FAC, Thanjavur. The suit was decreed *vide* decree and judgment dated 31.08.2015. Aggrieved by the same, the petitioner filed an appeal in the year 2018 before the Principal District Judge, Thanjavur along with an interlocutory application in I.A.No.36 of 2018 seeking to condone the delay of 888 days in preferring the appeal. The said interlocutory application was dismissed by the Principal District Judge, Thanjavur *vide* his decree and



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order dated 04.07.2019. Against the dismissal of I.A.No.36 of 2018 in unnumbered appeal filed in the year 2018 by the petitioner, the present Civil Revision Petition is filed.

4. Having heard the submissions of the respective counsels and upon careful perusal of the material available on record, it appears that in the suit, the plaintiff claimed 1/7th share in the suit properties. The petitioner/2nd defendant also claimed 1/7th share in the properties. The trial Court passed preliminary decree.

5. The contention of the learned counsel for the petitioner is that the petitioner was under the impression that he was allotted 1/7th share in the entire properties. The petitioner came to know that the suit was dismissed in respect of 3rd Item in 'B' Schedule property and Item Nos.1 to 3 in 'C' Schedule property, only after filing of the Commissioner's report while passing of final decree in I.A.No.309 of 2016. Immediately he obtained certified copy of the decree and judgment and preferred appeal with a delay of 888 days and sought to condone the delay. But,



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the learned Principal District Judge, Thanjavur noted that the petitioner was represented in the final decree proceedings in I.A.No.309 of 2016. In such circumstances, the petitioner could have known the dismissal of the suit with regard to the 3rd Item in 'B' Schedule and Item Nos.1 to 3 in 'C' Schedule properties. It is not the case of the petitioner that he is not aware of the final decree proceedings in I.A.No.309 of 2016.

6. On perusal of the affidavit filed by the petitioner in I.A.No.36 of 2018 along with the appeal, the reasons for the delay of 888 days in preferring the appeal are not properly explained by the petitioner. The reason stated by the petitioner for the delay of 888 days that he is an illiterate is not an acceptable reason.

7. In view of the above, in the opinion of this Court, the petitioner failed to show any sufficient cause to condone the delay of 888 days in preferring the appeal. As such, this Court is not inclined to interfere with the reasoned order passed by the Principal District Judge, Thanjavur, in the absence of any infirmity or illegality.



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8. For the above said reasons, this Civil Revision Petition is dismissed.

9. There shall be no order as to costs.

30.11.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

The Principal District Judge,
Thanjavur.



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BATTU DEVANAND, J.

abr

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